

**Chesapeake Bay Local Assistance Board
Tuesday, September 26, 2006
Providence Forge, Virginia**

Chesapeake Bay Local Assistance Board Members Present

Donald W. Davis, Chairman
Gregory C. Evans
Richard B. Taylor

Walter J. Sheffield, Vice Chairman
Gale A. Roberts
John J. Zeugner

Chesapeake Bay Local Assistance Board Members Not Present

Michael A. Rodriguez

Commonwealth of Virginia Staff Present

Joseph H. Maroon, DCR Director
Jeff Corbin, Assistant Secretary of Natural Resources
Russell W. Baxter, DCR Deputy Director
Joan Salvati, Director, DCR Division of Chesapeake Bay Local Assistance
Shawn Smith, Principal Environmental Planner
V'lent Lassiter, Senior Environmental Planner
Rob Suydam, Senior Environmental Planner
Nancy Miller, Senior Environmental Planner
Daniel Moore, Principal Environmental Planner
Michael R. Fletcher, DCR Director of Development
Roger Chaffe, Office of the Attorney General
Ryan Brown, Office of the Attorney General
Jennifer Sidleck, WS Field Coordinator

Local Government Officials Present

Stephen Manster, Town of Bowling Green
Michael Stallings, Town of Windsor
Debra Byrd, City of Richmond
John Friedman, Fairfax County
James W. Patterson, Fairfax County
Robert Goumas, City of Suffolk

Call to Order

Mr. Davis called the meeting to order and asked for the calling of the roll. A quorum was declared present.

Welcome New Board Members

Mr. Davis welcomed Richard B. Taylor and John J. Zeugner as new members of the Board.

Mr. Taylor noted that he had previously served on the Scenic River Advisory Board and was a past President of the Friends of the Lower Appomattox.

Mr. Zeugner noted that he previously worked with the Chesapeake Bay Local Assistance Department. He is the Executive Director of the Richmond Recreation and Parks Foundation and a member of the Friends of Byrant Park.

Consideration of the Minutes

June 19, 2006 Board Meeting

MOTION: Ms. Roberts moved that the minutes of the June 19, 2006 meeting of the Chesapeake Bay Local Assistance Board be approved as submitted.

SECOND: Mr. Sheffield

DISCUSSION: None

VOTE: Motion carried unanimously

August 15, 2006 Northern Area Review Committee

MOTION: Mr. Duncanson moved that the minutes of the August 15, 2006 meeting of the Northern Area Review Committee be approved as submitted.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

Director's Report

Mr. Maroon gave the Director's Report. He noted that later in the agenda, staff would ask for a motion to go into Executive Session to address matters regarding a legal issue.

Mr. Maroon extended his welcome to Mr. Taylor and Mr. Zeugner and noted that the staff was pleased that Mr. Davis had been reappointed to the Board.

Mr. Maroon noted that Ms. Macaulay had been appointed to the Virginia Scenic River Advisory Board. He noted also that Ms. Harper and Mr. Froggatt had resigned.

It was the consensus of the Board that staff prepare resolutions and letters of appreciation for Mr. Froggatt, Ms. Macaulay and Ms. Harper. Mr. Davis said it would be appropriate to present these at the December meeting.

Mr. Maroon said that the workshops presented by the Department's Division of Chesapeake Bay Local Assistance were very successful with about 300 people attending.

Mr. Maroon said that the Department is currently recruiting for an Assistant Division Director and for a Watershed Specialist. He said DCR would soon begin the recruitment process for an additional principal planner position.

Mr. Maroon said that the Governor's Leadership Summit on Natural Resources held on September 18 and 19 at Hungry Mother State Park in Marion focused on land conservation, water quality and resources, outdoor recreation and air quality. He noted that Mr. Evans had been in attendance representing the Association of Soil and Water Conservation Districts.

Mr. Evans said that he was very impressed with the Governor's vision and grasp of the intricacies of the issues. He said that he would expect to see priorities developed on the issues of water quality and riparian buffers.

Mr. Corbin gave an update regarding HB1150. He said that the bill, patroned by Delegate Linghamfelter, requires the Secretary to develop a plan to clean-up the Commonwealth's impaired state waters. He noted that an initial stakeholders meeting to discuss plan concepts was held in July.

Mr. Davis said that he was able to attend that meeting.

Mr. Sheffield congratulated the Department on the successful audit. He asked about the concern regarding the small purchase card program and whether any of those comments were directed towards the Division of Chesapeake Bay Local Assistance.

Mr. Maroon said the small charge card issue was largely a state parks issue.

Mr. Maroon reported on the September 22, 2006 Bay Executive Council meeting in Annapolis. Mr. Maroon, Mr. Baxter and Mr. Corbin attended the meeting. The Bay Executive Council consists of the Governors of Virginia, Maryland, Pennsylvania and the Mayor of Washington, D.C.

Ms. Salvati provided members with a copy of the Riparian Buffer Manual that the Board approved in 2003. This was distributed at the recent workshops.

Consent Agenda

Mr. Davis noted that the item for the Town of Occoquan would be moved down under Local Program Compliance Evaluations.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board approve the Consent Agenda items for Prince William County and the Town of Colonial Beach as presented by staff.

SECOND: Mr. Duncanson

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006**

RESOLUTION

**LOCAL PROGRAM, PHASE I
PRINCE WILLIAM COUNTY - #28**

Determination of Consistency– Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall designate Chesapeake Bay Preservation Areas and incorporate protection of the quality of state waters in Chesapeake Bay Preservation Areas into local plans and ordinances; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the elements in subsections 1 (a map delineating Chesapeake Bay Preservation Areas) and 2 (performance criteria applying in Chesapeake Bay Preservation Areas) shall be adopted by local governments; and

WHEREAS the Prince William County adopted an amended Phase I local program to comply with §§ 9 VAC 10-20-60 1 and 2 on December 3, 2002; and

WHEREAS on April 3, 2006 the Chesapeake Bay Local Assistance Board found Prince William County's Phase I program inconsistent with six (6) recommendations for consistency that were to be addressed by the County and set a compliance date of June 30, 2006; and

WHEREAS the Board of Supervisors for Prince William County adopted amendments to the Phase I program on June 6, 2006 and September 19, 2006; and

WHEREAS staff has reviewed Prince William County's revised Phase I program for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report and of the Review Committee; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds Prince William County's Phase I program consistent with § 10.1-2109 of the Act and §§ 9 VAC 10-20-60 1 and 2 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on September 26, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF COLONIAL BEACH - #26

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on March 21, 2005 the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the Town of Colonial Beach's Phase I program did not fully comply with the Act and Regulations and further that the Town address the four (4) recommendations in the staff report no later than March 31, 2006; and

WHEREAS in late 2005 and early 2006, the Town of Colonial Beach provided staff with information relating to the Town's actions to address the four (4) recommendations which was evaluated in a staff report; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Colonial Beach's Phase I program complies with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Local Program Ordinance Reviews

City of Richmond

Mr. Suydam gave the report for the City of Richmond.

REVISED: 12/5/2006 9:34:05 AM

The City of Richmond adopted revisions to their Chesapeake Bay Preservation Area ordinance in December of 2004. In March of 2005 the Board found the City's Bay Ordinance consistent with the Regulations subject to the condition that the City adequately address the three recommendations for consistency outlined by staff at that time. On July 25, 2005, City Council adopted amendments to their Bay Ordinance addressing two of the three recommendations and the Board accepted those revisions during its April 3, 2006 meeting. The third recommendation regarding the five-year septic pump-out program was to have resulted in appropriate revisions to the City's Health Ordinance. However, the work required to address this recommendation had not been completed by the April 3rd meeting and subsequently the Board adopted a resolution establishing June 30, 2006 as the compliance deadline. At that April 3rd Board meeting, Richmond City staff informed the Board that work had begun on addressing this remaining condition and that the City believed the work would be done by the June 30, 2006 deadline.

However, on June 19, 2006, the City notified staff that due to personnel changes within the Health Department, the deadline would not be met and on July 6, 2006 the Department received a letter formally requesting a 90-day extension to the deadline.

While staff is of the opinion that City personnel issues and the reversion of the City Health Department back to a State Health Department may be impairing their ability to adopt the required revision, the Board's April 3, 2006 resolution made it clear that failure to meet the June 30, 2006 deadline would result in the City's Phase I program being found inconsistent. In light of that resolution, staff recommends the Board deny this request and further find that the City's program be found inconsistent.

Mr. Suydam said that the City had presented him a draft ordinance that would be introduced to City Council on October 9, 2006.

Ms. Byrd said that the ordinance was actually introduced to the Council the previous evening, September 25, 2006. The Council will take action on October 9, 2006.

Ms. Byrd said the City was requesting that this item be moved to the October SARC meeting in order to give time for the City to make the ordinance change.

Ms. Salvati said that staff could present the results of the City Council actions at the October 31, 2006 SARC meeting.

MOTION: Mr. Zeugner moved that the Chesapeake Bay Local Assistance Board move consideration of the Richmond City's Phase I program to the October 31, 2006 meeting of the Southern Area Review Committee in order to allow time for City Council to act on the proposed ordinance change.

SECOND: Ms. Roberts

REVISED: 12/5/2006 9:34:05 AM

DISCUSSION: Mr. Chaffe asked the procedure for moving this issue to the SARC meeting.

Ms. Salvati said that the Board would not be finding the program inconsistent but would be deferring action until the SARC review.

Mr. Maroon noted that the item would remain on the agenda, but that the Board would take no action.

VOTE: Motion carried unanimously

Local Program Comprehensive Plan Reviews

Ms. Smith gave the report for the City of Suffolk. She introduced Mr. Robert Goumas with the City.

The City's comprehensive plan was found consistent with five (5) conditions by the Board at their December 11, 2000 meeting, with a compliance deadline of December 31, 2003. In the intervening years, the City requested and was given a deadline extension to June 30, 2005, but failed to adopt by that date. On April 3, 2006, the Board found the City's Phase II program inconsistent, and established June 30, 2006 as the final deadline. The City had been developing a revised comprehensive plan, which was adopted on April 5, 2006. Staff reviewed the revised plan, and is of the opinion that all five conditions have been met.

The condition related to physical constraints to development was met as the Plan includes a focused growth approach, which takes into account physical constraints to development and conservation of rural lands.

The condition related to protection of potable water was met as the Plan includes a more detailed discussion of the protection of the potable water supply and the City's Water Master Plan.

The condition related to shoreline erosion was met as the Plan includes a more detailed discussion of shoreline features and erosion to include tidal wetlands and the potential impacts of shoreline erosion.

The condition related to public and private access to waterfront areas was met as the Plan includes a discussion of fishery resources such as fish spawning areas, stocked fish areas, and shellfish growing areas as well as waterfront access and the potential impacts of marinas and water access on water quality.

Finally, the condition related to redevelopment of IDAs and other areas was met as the Plan provides more discussion on redevelopment, IDAs and water quality improvements

possible through the use of BMPs and buffer restoration as well as the previously mentioned Focused Growth Framework which seeks to focus growth in already developed areas, while protecting outlying areas with sensitive features.

Based on the inclusion of additional information, mapping, policies and actions related to the five conditions in the revised plan, staff is of the opinion that the City's Phase II program be found consistent.

Mr. Goumas said that the City concurred with the staff recommendation. He said that in 1998 the City undertook a bold and innovative approach to the issue. He noted that the City is a mix of urban and rural.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find the comprehensive plan adopted by the City of Suffolk on April 5, 2006 consistent with §10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006

RESOLUTION

LOCAL PROGRAM - PHASE II
CITY OF SUFFOLK - # 51

Determination of Consistency - Consistent

WHEREAS § 10.1-2109 of the Chesapeake Bay Preservation Act states that counties, cities, and towns in Tidewater Virginia shall incorporate protection of the quality of state waters into each locality's comprehensive plan; and

WHEREAS § 9 VAC 10-20-60 of the Chesapeake Bay Preservation Area Designation and Management Regulations states that the element in subsection 3 shall be adopted by local governments; and

WHEREAS § 10.1-2103 10 of the Chesapeake Bay Preservation Act authorizes the Board to take administrative and legal actions to ensure compliance by counties, cities, and towns with the provisions of the Act; and

WHEREAS the City of Suffolk adopted a Comprehensive Plan in 1998; and

WHEREAS on December 10, 2000 the Chesapeake Bay Local Assistance Board found the City of Suffolk's plan consistent with five recommendations for consistency that were to be addressed by the City and set a compliance date of December 31, 2003; and

WHEREAS on December 8, 2003, the Chesapeake Bay Local Assistance Board extended the City's compliance date from December 31, 2003 to June 30, 2005; and

WHEREAS on April 3, 2006, the Chesapeake Bay Local Assistance Board found the City's Phase II (comprehensive plan) inconsistent due the failure by the City to adopt a revised plan by June 30, 2005 and set a final compliance deadline of June 30, 2006; and

WHEREAS the City Council for the City of Suffolk adopted revisions to its comprehensive plan on April 5, 2006; and

WHEREAS staff has reviewed City of Suffolk's comprehensive plan for consistency with the previous consistency recommendations and the Act and Regulations; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendations in the staff report; now

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the City of Suffolk's comprehensive plan consistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 3 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on September 26, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Bowling Green

Ms. Smith gave the report for the Town of Bowling Green. She recognized Mr. Stephen Manster from the Town.

The Town's comprehensive plan was reviewed by the Board on December 13, 1999. At this meeting, the Board found the plan to be consistent with five (5) conditions and a compliance deadline of June 1, 2003. During the intervening years, a number of staff members informed the Town of the deadline, most recently beginning in August 2005, but the Town has yet to adopt a revised plan. Both the Town and the Department have

had a number of staff changes in the past few years, but on February 27, 2006, the Town did notify the Department that a revised plan would be adopted by June or July of 2006. The Town is working on a revised comprehensive plan, and has provided information on the latest draft for review. However, staff is recommending that the Town's Phase II program be found inconsistent due the fact that it is currently three (3) years overdue in meeting the 2003 deadline despite being provided a number of notices of the deadline. At their meeting of August 15th, the Northern Area Review Committee recommended a final deadline of October 30, 2006 for the Town to adopt a revised plan that addresses the five (5) conditions in the 1999 review. Staff intends to continue to offer assistance to the town to meet this deadline and to address the consistency recommendations.

Mr. Sheffield asked Mr. Manster if the Town could meet the deadline.

Mr. Manster said no. He noted that the Town acknowledges being deficient in five (5) or six (6) areas. He said the town had draft material and amendments to the plan to present to the Board.

Mr. Manster said that the Town Council meets on December 7th and that staff intent is to present the changes at that meeting.

MOTION: Mr. Sheffield moved that the Chesapeake Bay Local Assistance Board find the Town of Bowling Green's Phase II program (comprehensive plan) inconsistent with § 10.1-2109 of the Act and § 9 VAC 10-20-60 1 and 2 of the Regulations and further that a final deadline of December 8, 2006 be established for the Town to adopt a revised comprehensive plan that addresses the five (5) consistency items outlined in the staff report.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously.

Local Program Compliance Evaluation

Town of Occoquan

Mr. Moore gave the report for the Town of Occoquan. There was no one from the Town in attendance.

On March 21, 2005 the Board found that the Town of Occoquan's program did not fully comply with the Act and Regulations, with eight (8) recommendations to be completed by March 31, 2006. The recommendations related to CBPA mapping, WQIA

requirements, plan of development files and forms, stormwater management requirements, BMP maintenance and tracking, and RPA exceptions and waivers.

In response to these conditions, the Town has worked with a team of consultants to produce documents and databases necessary to be in compliance with the Regulations. A Chesapeake Bay Preservation Overlay District Compliance Resource Book has been developed which contains a corrected CBPA map; a flow chart outlining the plans review process and the forms and checklists necessary to determine compliance; an RPA exceptions database, encroachment application form, review checklists and WQIA forms to be used in evaluating requests; and a BMP maintenance agreement, forms and checklists, and tracking database.

There was one ordinance change that was recommended which will be reviewed by the Town Council on September 12, 2006. The ordinance change will codify the use of the 16% impervious cover default in stormwater calculations.

Staff finds that with these changes and additions to review processes and procedures, the Town adequately addressed the eight (8) conditions. Staff recommends that the Board find the Town of Occoquan's implementation of its Phase I program be found consistent with the Act and regulations.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find the Town of Occoquan's implementation of its Phase I program consistent with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously.

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

TOWN OF OCCOQUAN - #34

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay

Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on March 21, 2005, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of Occoquan's Phase I program did not fully comply with the Act and Regulations and further that the Town address the eight (8) recommendations in the staff report no later than March 31, 2006; and

WHEREAS in June 2006, the Town provided staff with information relating to the Town's actions to address the eight recommendations which was evaluated in a staff report; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Occoquan's Phase I program to comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Hopewell

Mr. Suydam presented the report for the City of Hopewell. No one was present from the City.

The Department conducted a compliance evaluation for the City of Hopewell in the Spring 2005. The Board considered the City's compliance evaluation at their June 20, 2005 meeting and found that certain aspects of the implementation of the City's Phase I program did not fully comply with the Bay Act and Regulations. The Board's resolution at that time outlined ten (10) recommendations to be addressed for compliance and set June 30, 2006 as the compliance deadline.

However, on July 7, 2006, the Department received a letter from the City formally requesting an extension of the deadline to December 31, 2006. Subsequent conversations between Director of Community Development Mr. March Altman and staff disclosed the fact that the City staff member assigned the responsibility of addressing these **ten (10)** recommendations had resigned and that Mr. Altman has been precluded from rehiring for this position. Thus, the responsibility of addressing these recommendations has now fallen upon remaining City staff. In light of this, Department staff would recommend the 180-day extension request be granted.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board approve the City of Hopewell's request for a deadline extension from June 30, 2006 to December 31, 2006 for the purpose of addressing the ten recommendations for compliance contained in the staff report.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD**September 26, 2006****RESOLUTION****LOCAL PROGRAM, PHASE 1**
CITY OF HOPEWELL #13**Extension of Compliance Deadline – To December 31, 2006**

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure

compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on June 20, 2005, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the City of Hopewell's Phase I program did not fully comply with the Act and Regulations and further that the City address the 10 recommendations in the staff report no later than June 30, 2006; and

WHEREAS, the City of Hopewell began work to come into full compliance with the Act and its Regulations but due to extenuating circumstances, the City requested an extension to December 31, 2006; and

WHEREAS after considering and evaluating the information presented to staff in July and August 2006, the Board agrees with the recommendation in the staff report; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board extends the date for the City of Hopewell to come into compliance with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations from June 30, 2006 to December 31, 2006.

BE IT FURTHER RESOLVED that the conditions previously imposed and still applicable for a finding of consistency are as follows:

1. For consistency with §§ 9 VAC 10-20-80 and 9 VAC 10-20-130 of the Regulations, the City must ensure that their Bay Act program requirements are applied uniformly throughout the City. Exemptions to the requirements for designation of CBPAs are not allowed under the Regulations, and their exemptions do not appear to have been submitted for review by the Chesapeake Bay Local Assistance Board.
2. For consistency with § 9 VAC 10-20-105 of the Regulations, the City must ensure that onsite RPAs are properly delineated through their plan submittal and review process, by revising their submittal forms, and checklists to require complete and accurate delineation and designation of all RPA and RMA features on submitted site plans, including any CBPA features that are present on adjacent properties. To ensure this happens, the City must revise their Site Plan Requirements in Article XVI of the City Code to include this

requirement.

3. To ensure that the RPA remains undisturbed during construction as required under and for consistency with § 9 VAC 10-20-130 3 of the Regulations, the City must require the installation of safety or silt fencing or other visible barriers along the boundary of the RPA as deemed appropriate by City staff on parcels with RPA present.
4. For consistency with § 9 VAC 10-20-120 6 of the Regulations, the City must address the erosion and sediment control program deficiencies noted by DCR-DSWC staff through submittal of a Corrective Action Agreement.
5. For consistency with § 9 VAC 10-20-120 7 a of the Regulations, the City must implement a five-year pump-out notification for any remaining septic systems that exist within the City's CBPAs.
6. For consistency with § 9VAC 10-20-130 1 e of the Regulations, the City must cease permitting the placement of BMPs in the RPA through an administrative process, and must only allow them after being granted an exception following review and approval through the formal exception process.
7. For consistency with §§ 9 VAC 10-20-150 and 9 VAC 10-20-130 4 of the Regulations, the City must provide documentation of any administrative waiver or exception request.
8. For consistency with § 9 VAC 10-20-130 6 of the Regulations, the City shall ensure that a WQIA is submitted and reviewed for all land disturbances in the RPA, including shoreline erosion control projects, approved administrative waivers and exceptions and all other permitted uses and development.
9. For consistency with § 9VAC 10-20-120 8, and therefore § 4VAC 3-20-71, stormwater management facilities must be located, designed and maintained to perform at the target pollutant removal efficiency specified in § 4VAC 3-20-71, Table 1.
10. For consistency with § 9VAC 10-20-120 8, the City must consistently implement the stormwater runoff criteria of the City's CBPA Overlay District ordinance (Article XV-A.K.1, Article XV-A.K.2.h) and require a stormwater plan to be submitted (Article XV-A.M.4) that provides the engineering calculations and details the appropriate stormwater quality mitigation.

BE IT FINALLY RESOLVED that failure by the City of Hopewell to meet the above established compliance date of December 31, 2006 will result in the local program becoming inconsistent with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject the City of Hopewell to the compliance provisions as set forth in §10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

City of Poquoson

Ms. Miller gave the report for the City of Poquoson.

On December 12, 2005, the Board found the City of Poquoson's Phase I program not fully compliant with the Act and Regulations and set a deadline of June 30, 2006 for the City to address one (1) remaining condition from seven (7) included in the original staff report. As required by the condition, the City developed a database to track required BMP maintenance agreements and City staff began monitoring and inspecting BMPs by the deadline. Staff recommends that the Board find the City of Poquoson's local Bay Act program compliant with the Act and Regulations.

MOTION: Ms. Roberts moved that the Chesapeake Bay Local Assistance Board find that the City of Poquoson has addressed the recommendation from the December 12, 2005 compliance evaluation condition review and find that City of Poquoson's Phase I program compliant with §§ 10.1-2109 and 2111 of the Act and §§ VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Taylor

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD

September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION

CITY OF POQUOSON - # 50

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with, the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on December 12, 2005, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the City of Poquoson's Phase I program did not fully comply with the Act and Regulations and further that the City of Poquoson address the one recommendation in the staff report no later than June 30, 2006; and

WHEREAS in June 2006, the City provided staff with information relating to the City's actions to address the recommendation which was evaluated in a staff report; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Southern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the City of Poquoson's Phase I program to comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Town of Windsor

Ms. Smith presented the report for the Town of Windsor. She introduced Michael Stallings with the Town.

The Town underwent a compliance evaluation in 2004 and was reviewed by the Board at their December 13, 2004 meeting. The Board established December 31, 2005 as the deadline for the Town to address three (3) compliance conditions. On April 3rd of this year the Town requested and was granted a deadline extension from December 31, 2006 to June 30, 2006.

The Town's three (3) compliance conditions related to the development of a BMP maintenance program; ensuring that WQIAs are submitted when required, and ensuring that all required notations are included on all site plans prior to their approval. To address the first compliance condition, the Town has developed a BMP inspection log to track inspection of the few BMPs in town, and the Town will be conducting the initial inspections with assistance from the Division of Soil and Water regional staff. To address the two (2) remaining conditions, the Town has developed zoning and subdivision permit applications which include required WQIA information and which include all information necessary to ensure that all requirements of the Town's Bay Act program are properly reviewed and noted on plans. Based on this information, staff recommends that the Town be found compliant.

Mr. Stallings said the Town concurred with staff recommendations.

MOTION: Mr. Duncanson moved that the Chesapeake Bay Local Assistance Board find that the Town of Windsor had addressed the three (3) recommendations from the December 13, 2004 compliance evaluation and find the Town's Phase I program compliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

SECOND: Mr. Evans

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
TOWN OF WINDSOR - #67

Local Compliance Evaluation - Compliant

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS on December 13, 2004, the Chesapeake Bay Local Assistance Board found that implementation of certain aspects of the Town of Windsor's Phase I program did not fully comply with the Act and Regulations and further that the Town address the three (3) recommendations in the staff report no later than December 31, 2005; and

WHEREAS on April 3, 2006 the Chesapeake Bay Local Assistance Board at the request of the Town, extended the Town's compliance date from December 31, 2005 to June 30, 2006; and

WHEREAS in Spring of 2006, the Town provided staff with information relating to the Town's actions to address the three (3) recommendations which was evaluated in a staff report; and

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds the implementation of the Town of Windsor's Phase I program to comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 18, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director

Department of Conservation and Recreation

Spotsylvania County

Ms. Smith presented the report for Spotsylvania County.

The compliance evaluation for the County was started in late spring of 2005, with several meetings to complete the checklist, review site plans, and perform field visits taking place in the summer of 2005. The delay in bringing the review to the Board is related to staff departures at the Department. However, the delay was beneficial in that the County was able to address some of the previous compliance recommendations, so the result is that there are fewer recommendations than the initial report. The County has been very cooperative throughout the process, and has taken some positive steps to improve its Bay Act program, based on the initial staff report. For instance, the County now has one staff person in its Codes Compliance Department that is focused solely on RPA issues and the County also began to require a WQIA for all proposed encroachments into the RPA.

Based on the review during 2005 and re-review in 2006, as well as recent information, staff has three (3) recommendations for compliance. The first relates to the septic pump-out requirement, and the need for the County to develop a program to notify septic tank properties of the need to either have the system pumped-out every 5 years, have it inspected, or have it pumped and the plastic filter installed. The other two recommendations relate to stormwater requirements and BMP maintenance. One requires the County to amend its BMP design standards and pollutant removal efficiencies to conform with those outlined in the Virginia Stormwater Management Handbook; another requires the County to amend a section of its stormwater ordinance to include all conditions that are to be reviewed when County staff considers requests for an administrative waiver to the stormwater requirements. There was a fourth recommendation, relating to the implementation of a program to ensure that maintenance of water quality BMPs is occurring, but the County recently initiated a BMP maintenance program, and provided information relating to a database, notification requirements and tracking information which is implemented by the County's Code Compliance staff, so staff is of the opinion that this former recommendation has been addressed.

Spotsylvania County is an extremely fast-growing county with a great deal of development pressure. Despite this pressure, County staff is working to implement their Bay Act program consistent with their local ordinance and the Regulations. At their meeting on August 15, 2006, the Northern Area Review Committee found that certain aspects of the implementation of the County's Phase I program do not fully comply with the Act and Regulations, and that the Board establish March 31, 2007 as the deadline for recommendations 2 and 3, and September 30, 2007 as the deadline for recommendation 1.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find that certain aspects of Spotsylvania County's Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§

9 VAC 10-20-231 and 250 of the Regulations, and that the County be directed to undertake and complete recommendations # two and # three no later than March 31, 2007 and recommendation # one no later than September 30, 2007. Further the Board requests that the County provide a progress report regarding recommendation number 1 no later than March 31, 2007.

SECOND: Mr. Sheffield.

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
SPOTSYLVANIA COUNTY - #20

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in late 2005 and early 2006, the Division of Chesapeake Bay Local Assistance conducted a compliance evaluation of Spotsylvania County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation

staff report and concurred with the staff recommendation as outlined in the staff report;
and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Spotsylvania County's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs the County to undertake and complete recommendations # two and three no later than March 31, 2007 and recommendation # contained in the staff report no later than September 30, 2007.

1. For consistency with Section 9 VAC 10-20-120.7 of the Regulations and as required by Section 6A-10(b)(1) of the County's Bay Act ordinance, the County must develop and implement a septic maintenance program, including the 5-year pump-out notification, installation of the plastic filter, and/or annual inspection, and any necessary tracking information.
2. For consistency with 9 VAC 10-20-120 8 of the Regulations, the County must amend the design standards and pollutant removal efficiencies for the Best Management Practices outlined in the Spotsylvania County Design Standards Manual to conform to those outlined in the Virginia Stormwater Management Handbook.
3. For consistency with 9 VAC 10-20-150 C 1, the County must amend Section 19A-36 of the Stormwater Ordinance to include all required findings for review and approval of an administrative waiver of the stormwater requirements.

BE IT FINALLY RESOLVED that failure by Spotsylvania County to meet the above established compliance dates of March 31, 2007 and September 30, 2007 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Spotsylvania County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon

Director
Department of Conservation and Recreation

Mathews County

Ms. Miller gave the report for Mathews County.

The Department initiated Mathews County's compliance evaluation in July 2005, with an interruption to allow the County to revise its CBPA Overlay District to meet a Phase I deadline of December 31, 2005. The evaluation revealed that the County is striving to implement an effective local Bay Act program and there are five recommendations to be addressed for full compliance. The County must: document that all Bay Act Plan of Development requirements are met; implement a septic system pump-out notification and enforcement program; track and periodically inspect BMPs; secure WQIAs as required; and, enforce RPA buffer modification limitations.

The Review Committee recommends that the Board find the County's Phase I program implementation not fully compliant and that Mathews County undertake and complete the five recommendations in the staff report no later than September 30, 2007.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board find that certain aspects of Mathew's County's implementation of its Phase I program do not fully comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and directs the County undertake and complete the five recommendations contained in the staff report no later than September 30, 2007.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006

RESOLUTION

LOCAL PROGRAM COMPLIANCE EVALUATION
MATHEWS COUNTY - # No. 42

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9 VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in May 2006, the Chesapeake Bay Local Assistance Board conducted a compliance evaluation of Mathews County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Mathews County's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Mathews County to undertake and complete the five (5) recommendations contained in this staff report no later than September 30, 2007.

1. To comply with 9 VAC 10-20-120 4 of the Regulations, the County must fully document that all Bay Act POD requirements have been met.
2. The County must implement and track its onsite septic system options for compliance with §9VAC 10-20-120 7 a.
3. To fully comply with § 9 VAC 10-20-120 3 of the Regulations, the County must develop a program to ensure the regular or periodic maintenance and tracking of best management practices (BMPs) in order to ensure their continued proper functioning over the long-term.

4. In accordance with Sections 9 VAC 10-20-130 1 a and 9 VAC 10-20-130 6 of the Regulations, require submission of a WQIA for any proposed land disturbance, development or redevelopment within RPAs.
5. The County must ensure that any modification to vegetation in the RPA is consistent with Section 9 VAC 10-20-130 5 a of the Regulations. It should no longer allow vegetation in the buffer to be removed based solely on size and should review and approve the removal of any vegetation in the RPA.

BE IT FINALLY RESOLVED that failure by Mathews County to meet the above established compliance date of September 30, 2007 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Mathews County to the compliance provisions as set forth in § 10.1-2103 10 of the Act and § 9 VAC 10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that this resolution was adopted in open session on September 26, 2006 by the Chesapeake Bay Local Assistance Board.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Fairfax County Initial Compliance Evaluation

Mr. Moore gave the report for Fairfax County. He recognized John Friedman and James Patterson from the County.

The Department initiated the compliance evaluation in February 2005, proceeding with site plan review and field investigation visits in June and July 2005. Several conversations have been held between County and Department staff in the interim to negotiate several of the recommendations.

In general, staff found Fairfax County's program to be extremely comprehensive, with checks and balances found throughout numerous County codes and ordinances. Several changes to the Public Facilities Manual were recently adopted at the Department's request concerning the declassification of streams from perennial to intermittent. Negotiation between County and Department staff over this issue was the primary delay in bringing the compliance evaluation to the Board.

The only area in which the Department was able to find the County at all deficient in its program implementation is the WQIA submission and review process, and even this recommendation is a matter of consistency and documentation. Department staff found

that there is just so much development going on, and so many County staff people are involved, that WQIA requirements are insufficiently documented and inconsistently applied for smaller projects. In addition, Recommendations 1, 2, 4, and 5 are all ordinance changes necessary to tighten up the language, rather than to address deficiencies in the County's program implementation. Staff felt they were necessary, however, for consistency with the Regulations.

County staff was very helpful during the compliance evaluation process. Department staff will work closely with County staff to address the recommendations within the established time frame. Staff recommends the Board find certain aspects of Fairfax County's program not fully compliant with the Act and Regulations and that the County complete the 5 (five) recommendations in the staff report no later than December 31, 2007.

Mr. Patterson said the County had no problem with the deadlines but asked for language changes in the staff report and motion to find the County provisionally consistent. He noted that the County's Erosion and Sediment Control program was recently found consistent.

Mr. Patterson said the County was working on the LIDS amendments and anticipated a public hearing would be held soon to address those amendments.

Mr. Patterson said the County was working to be in full compliance.

Mr. Evans said that he had a concern about the message that would be sent if the program was found inconsistent.

Mr. Evans suggested the following revision to the motion:

Therefore be it resolved that the Chesapeake Bay Local Assistance Board find that certain aspects of Fairfax County's ordinance languages for its Phase I program requires additional documentation to be fully consistent with §§10.1-2109 and 2111 of the Act and §§9VAC 10-20-231 and 250 of the Regulations.

After discussion of the language, Mr. Evans moved the following motion.

MOTION: Mr. Evans moved that the Chesapeake Bay Local Assistance Board commend Fairfax County for having an extremely comprehensive program and find that certain aspects of Fairfax County's ordinance languages and process for its Phase I program requires additional documentation to be fully compliant and that the County undertake and complete the five (5) recommendations contained in the staff report no later than September 30, 2007.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

**CHESAPEAKE BAY LOCAL ASSISTANCE BOARD
September 26, 2006**

RESOLUTION

**LOCAL PROGRAM COMPLIANCE EVALUATION
FAIRFAX COUNTY - #32**

Local Compliance Evaluation - Conditional

WHEREAS § 10.1-2103 of the Chesapeake Bay Preservation Act states that Chesapeake Bay Local Assistance Board shall take administrative and legal steps to ensure compliance by counties, cities and towns with the provisions of the Chesapeake Bay Preservation Act, including the proper enforcement and implementation of, and continual compliance with the Act; and

WHEREAS § 9VAC 10-20-250 1 b of the Regulations required the Board to develop a compliance evaluation process for evaluating local Bay Act compliance; and

WHEREAS the Chesapeake Bay Local Assistance Board adopted a compliance evaluation process on September 16, 2002 for the purposes of reviewing local Bay Act compliance; and

WHEREAS in March, 2005, the Chesapeake Bay Local Assistance Department began a compliance evaluation of Fairfax County's Phase I program in accordance with the adopted compliance evaluation process; and

WHEREAS on August 15, 2006 the Local Program Review Committee for the Northern Area considered and evaluated the information contained in the compliance evaluation staff report and concurred with the staff recommendation as outlined in the staff report; and,

WHEREAS after considering and evaluating the information presented on this date, the Board agrees with the recommendation in the staff report and of the Review Committee; now,

THEREFORE BE IT RESOLVED that the Chesapeake Bay Local Assistance Board finds that the implementation of certain aspects of Fairfax County's Phase I program do not comply with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations, and in order to correct these deficiencies, directs Fairfax County to

undertake and complete the five (5) recommendations contained in this staff report no later than September 30, 2007.

1. For consistency with § 9 VAC 10-20-130 1 d of the Regulations, amend Section 118-2-1 of the CBPO to include subsection 4 of § 9 VAC 10-20-130 1 d.
2. For consistency with § 9 VAC 10-20-130 1 a of the Regulations, amend the CBPO as follows: §118-3-3(a) and §118-4-2 of the CBPO to read as follows:

§118-3-3(a) “A Water Quality Impact Assessment shall be required for any proposed land disturbance, development or redevelopment within an RPA that is not exempt...”

§118-4-2 “A Water Quality Impact Assessment shall be required for any land disturbance, development or redevelopment within an RPA unless...”

3. For consistency with § 9 VAC 10-20-130 6 of the Regulations, establish a WQIA submission and review process for any proposed land disturbance, development or redevelopment within RPAs and for development in the RMA when required by County staff. This may include development of WQIA application forms, review evaluation checklists and a tracking database to allow efficient auditing of WQIAs by County and Department staff.
4. For consistency with § 9 VAC 10-20-150 B 1 and 2 of the Regulations, amend Section 118-5-2(a) and (b) of the CBPO to read as follows:
 - a. The construction, installation, operation and maintenance of electric, natural gas, fiber-optic and telephone transmission lines, railroads, and public roads and their appurtenant structures in accordance with (i) the Erosion and Sediment control Law (Section 10.1-560 et seq. of the Code of Virginia) and with Chapter 104 of the Fairfax County Code and with the Stormwater Management Act (Section 10.1-603.1 et seq. of the Code of Virginia), (ii) and erosion and sediment control plan and a stormwater management plan approved by the Virginia Department of Conservation and Recreation, or (iii) local water quality protection criteria at least as stringent as the above state requirements will be deemed to constitute compliance with this Article. The exemption of public roads is further conditioned on the optimization of the road alignment and design, consistent with other applicable requirements, to prevent or otherwise minimize (i) encroachment in the Resource Protection Area and (ii) adverse effects on water quality.
 - b. The construction, installation, and maintenance of water lines, ~~storm or~~ sanitary sewer lines including pumping stations, natural gas lines, underground telecommunications and cable television lines and

appurtenant structures owned, permitted, or both by Fairfax County or a regional service authority and subject to the following, as determined by the Director...

5. For consistency with § 9 VAC 10-20-150 C of the Regulations, amend Section 118-6-9 of the CBPO to read as follows:

“Exceptions to the criteria and requirements of this Chapter to permit encroachment into the RPA that do not qualify for review under Section 118-6-7 and Section 118-6-8, ~~or Section 118-6-9~~ may be granted provided that the exception meet the Required Findings listed in Section 118-6-6 and subject to the additional finding that the water quality benefits resulting from the proposed facility or improvement exceed the associated water quality detriments.”

BE IT FINALLY RESOLVED that failure by Fairfax County to meet the above established compliance date of September 30, 2007 will result in the local program becoming noncompliant with §§ 10.1-2109 and 2111 of the Act and §§ 9 VAC 10-20-231 and 250 of the Regulations and subject Fairfax County to the compliance provisions as set forth in § 10.1-2103.10 of the Act and § 9VAC10-20-250 of the Regulations.

The Director of the Department of Conservation and Recreation certifies that the Chesapeake Bay Local Assistance Board adopted this resolution in open session on September 26, 2006.

Joseph H. Maroon
Director
Department of Conservation and Recreation

Bay Act Implementation Status

Ms. Salvati gave a presentation regarding the Bay Act Implementation Status.

Slide 1

Chesapeake Bay Preservation Act Implementation Status

Joan Salvati
**Director, Division of Chesapeake
Bay Local Assistance**
September 26, 2006



Slide 2

Chesapeake Bay Preservation Area Designation and Performance Criteria


- All **84** Tidewater localities designated Resource Protection and Resource Management Areas by the early 1990's
- Most of the **84** localities have now completed revisions to their ordinances to comply with the major amendments to the regulations
- Only **8** local ordinances have outstanding conditions that must be met for consistency, many of these will be in full compliance by 2006



Slide 3

Performance Criteria

- No net increase in nonpoint source pollution over existing land cover conditions
- Maintain BMPs necessary to meet the phosphorous load standard
- Administer a septic pump out program
- Conduct plan reviews for development greater than 2500 square feet




Division of Chesapeake Bay Local Assistance

Slide 4

Performance Criteria

- Agricultural Conservation Assessments
- Evidence of wetland permits
- Minimize impervious cover
- Preserve indigenous vegetation to the maximum extent practicable
- No more land disturbed than necessary




Division of Chesapeake Bay Local Assistance

Slide 5

Comprehensive Plans

- **82** of the **84** localities have approved comprehensive plans with incorporated water quality protection measures
- **69%** of the localities accomplished their comprehensive plan amendments between 1995 and 2001
- The remaining **2** localities that are not yet consistent have deadlines in 2006




Division of Chesapeake Bay Local Assistance

Slide 6

Comprehensive Plan Requirements

- Identification of environmental features and constraints including:
 - ✓ soil limitations;
 - ✓ Chesapeake Bay Preservation Areas;
 - ✓ commercial and recreational fisheries;
 - ✓ shoreline and streambank erosion problems;
 - ✓ waterfront access areas;
 - ✓ potential sources of water pollution;
 - ✓ existing and proposed land uses



Division of Chesapeake Bay Local Assistance

Slide 7

Comprehensive Plan Requirements

- Establish policies on land use issues relative to water quality protection based on environmental features/constraints
- Discussion of policy issues including the scope and importance of the issue, the policy adopted by the local government for that issue, and a description of how the local policy will be implemented



Division of Chesapeake Bay Local Assistance

Slide 8

Compliance Evaluations

- **32** of the **84** localities have undergone an initial compliance evaluation
- Of the **32** that have been assessed, 16 now have fully compliant programs
- Staff are currently conducting **8** compliance evaluations




Division of Chesapeake Bay Local Assistance

Slide 9

Top Items for Non-Compliance

- No Water Quality Impact Assessment for RPA encroachments – 63%
- Lack of adequate BMP maintenance – 53%
- Inadequate septic pump out program – 46% - when looking at localities that have on-site septic systems only the level of non-compliance is 72%




Division of Chesapeake Bay Local Assistance

Slide 10

Status Summary

- ❖ Using technical assistance, education and grant funds to improve compliance – WQIA templates; grants for septic pump out programs; assistance with BMP data base development
- ❖ Finish Bay Act ordinance and comprehensive plan revision process by first quarter of 2007




Division of Chesapeake Bay Local Assistance

Slide 11

Emphasis for the Future

- Focus on compliance evaluations
- Initiate annual reporting process
- Initiate local subdivision and zoning ordinance reviews
- Continue technical assistance and plans review
- Administer “pass-through” grants to localities
- Continue education and outreach



Division of Chesapeake Bay Local Assistance


Briefing on Phase III

Ms. Salvati gave an overview of Phase III.

Slide 1

Phase III Concept Overview

Joan Salvati
September 26, 2006




Division of Chesapeake Bay Local Assistance

Slide 2

Phase III Overview


- ❖ Regulations require that Phase III consist of the review and revision by localities of their land development regulations and processes, including zoning, subdivision ordinances and plan of development review processes to comply with the provisions of the Bay Act
- ❖ Act requires the protection of state waters be part of local land use decision making

 **DCR**
Division of Chesapeake Bay Local Assistance

Slide 3

Existing Challenges


- Impervious cover rates have increased
- Run off of phosphorous and other pollutants has increased (phosphorous is the keystone pollutant)
- New Urbanism and Planned Unit Developments promote intense land use (when not used in conjunction with sound land planning)
- Road widths have increased
- House sizes are larger

 **DCR**
Division of Chesapeake Bay Local Assistance

Slide 4

Phase III Opportunities

- Identify and eliminate impediments to water quality protection in local ordinances
- Implement the portions of Chesapeake Bay 2000 agreements related to sound land use planning
- Integrate watershed management planning into local ordinances and processes
- Promote a stronger linkage for local staff between ordinance requirements and water quality goals such as nutrient and sediment reduction




Division of Chesapeake Bay Local Assistance

Slide 5

Phase III Components

- Review of local zoning, subdivision, and other land development ordinances for conflicts and opportunities
- Incorporate Better Site Design and Low Impact Development principles into local codes




Division of Chesapeake Bay Local Assistance

Slide 6

Benefits of Phase III


- Better coordination of water quality provisions of local ordinances
- Cost of development may be reduced
- Improved land use planning will complement new stormwater management regulations
- Land use planning on a sub-watershed basis

 **DCR**
Virginia Department of Conservation & Recreation
Chesapeake Bay Local Assistance Board
Division of Chesapeake Bay Local Assistance

Slide 7

General Concepts of Phase III


- ❖ Reduce impervious cover and land disturbance
Review street widths, parking requirements, lot coverage, etc
- ❖ Protect existing vegetation onsite
Review clearing and grading requirements, including drainage standards and curb and gutter as well as tree and other vegetation preservation standards
- ❖ Provide comprehensive approach to water quality throughout development process
Review site plan and subdivision plan requirements for integration of Bay Act principals throughout

 **DCR**
Virginia Department of Conservation & Recreation
Chesapeake Bay Local Assistance Board
Division of Chesapeake Bay Local Assistance

Slide 8

Phase III Development Process

- Work group created to flesh out initial concept
- Development of draft checklist and explanatory document
- Convene Local Government Ad Hoc committee for input on draft checklist and review process
- Meet with other stakeholders to seek input
- Presentation of final draft to Policy Committee
- Presentation of implementation plan to Board



Division of Chesapeake Bay Local Assistance

Slide 9

Proposed Phase III Schedule

- Workgroup meeting(s) – August-November 2006
- Development of draft documents – December 2006 - March 2007
- Convene Local Government Advisory Committee – Spring 2007
- Revise documents – Summer 2007
- Policy Committee meeting – Fall 2007
- CBLAB presentation – Fall/Winter 2007



Division of Chesapeake Bay Local Assistance

Mr. Street gave a presentation entitled: *Improving Local Building Codes and Ordinances to Protect the James River and its Tributaries*. A copy of this presentation is available from DCR.

Ms. Lassiter gave a presentation entitled: *An Assessment of Impediments to Low Impact Development in the Virginia Portion of the Chesapeake Bay Watershed*. A copy of this presentation is available from DCR.

Election of Officers

Mr. Maroon said that the Board bylaws call for the election of officers at the first meeting following July 1 each year.

Mr. Sheffield nominated Mr. Davis to continue to serve as Board Chair. Mr. Duncanson seconded.

There were no further nominations and the motion carried unanimously.

Mr. Duncanson nominated Mr. Sheffield to serve as Vice-Chair. Mr. Evans seconded.

There were no further nominations and the motion carried unanimously.

Freedom of Information Act Training

Mr. Brown gave a presentation regarding the Freedom of Information Act.

CDs were distributed to members for further training on the Conflict of Interest Act. Mr. Maroon explained that members needed to complete the training and return the attached certificates to DCR.

New Business

MOTION: Mr. Sheffield moved that the Board convene a closed meeting pursuant to §2.2-3711(A) (7) of the Code of Virginia for the purpose of consultation with legal counsel regarding specific legal matters requiring the provision of legal advice, namely the pending litigation against the Board by the City of Hampton, styled *City of Hampton v. Commonwealth of Virginia ex rel. Chesapeake Bay Local Assistance Board*, Circuit Court of Hampton, Chancery No. 65CH05000731-00.

This closed meeting will be attended only by members of the Board. However, pursuant to § 2.2-3712(F) of the Code, the Board requests counsel, the Director of the Department of Conservation and Recreation (DCR), the Director of the Division of Chesapeake Bay Local Assistance of DCR and Mr. Baxter, Ms. Smith, Ms. Miller and Mr. Moore to attend because it believes that their presence will reasonably aid the Board in its consideration of the topic that is the subject of this closed meeting.

SECOND: Mr. Duncanson

ROLL CALL VOTE: *Aye*

Donald W. Davis
William E. Duncanson
Gregory C. Evans
Gale A. Roberts
Walter J. Sheffield
Richard Taylor
John J. Zeugner

Nay

None

Motion Carried

MOTION: Mr. Sheffield moved the following certification:

WHEREAS, the Board has convened a closed meeting on October 31, 2006 pursuant to and affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712(D) of the Code requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, the Chesapeake Bay Local Assistance Board hereby certifies that, to the best of each member's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification applies, and only such public business matters as were identified in the motion convening the close meeting were heard, discussed or considered by the Board.

SECOND: Mr. Duncanson

ROLL CALL VOTE: *Aye*

Donald W. Davis
William E. Duncanson
Gregory C. Evans
Gale A. Roberts

REVISED: 12/5/2006 9:34:05 AM

Walter J. Sheffield
Richard Taylor
John J. Zeugner

Nay

None

Motion Carried

Discussion of Future Meetings

MOTION: Mr. Duncanson moved that the October 31, 2006 meetings be revised as follows:

NARC and SARC will meet in a joint meeting at 10:00 a.m.

The full Board will meet at 1:00 p.m.

SECOND: Mr. Zeugner

DISCUSSION: None

VOTE: Motion carried unanimously

New Business

Mr. Davis said that the Board should give some thought to amending the bylaws with regard to the NARC and SARC meetings. He suggested consideration be given to combining the committees into one review committee, and further that the Policy Committee be established as a separate committee.

Public Comment

There was no public comment.

Adjourn

Being no further business, the meeting was adjourned.

Respectfully submitted,

Donald W. Davis
Chairman

Joseph H. Maroon
Director